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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/841,502	04/23/97	PALERMO	APP-00215841

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EXAMINER  
NGUYEN, K

ART UNIT 2731	PAPER NUMBER 8
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DATE MAILED:

12/23/98

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.

08/841,502

Applicant(s)

Palermo; Cobler; Butler

Examiner

Kim Nguyen

Group Art Unit

2731



☐ Responsive to communication(s) filed on \_\_\_\_\_

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire three month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-7 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 1-7 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). ~~2~~ 2, 4, 5, 6, 7

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-7 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 5771438. Although the conflicting claims are not identical, they are not patentably distinct from each other because the applicant claims 1-7 merely broaden the scope of the patented claim 1.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono et al (U.S. Patent No. 4,334,315) (hereinafter Ono).

a. As per claim 1, Ono teaches a magnetic induction wireless communications system which comprises:

A first portable unit 16 (Fig. 11); a second portable unit 3 (Fig. 11) which includes a second inductive transducer 18 (Fig. 4) (col. 1, lines 44-51 and col. 3, lines 51-62).

The first and second portable units receive input signals and provide output signals (Fig. 4, col. 3, lines 45-67 and col. 4, lines 1-6).

Ono does not teach a first transducer system. However, it would have been obvious to a person of ordinary skill in the art at the time the invention was made that in order to enable communications between the first unit and the second unit, a transducer must be included in the first portable unit 16 (Fig. 1).

Further, Ono teaches a two-way communication system (abstract). It would have been obvious to a person of ordinary skill in the art at the time the invention was made that the first unit generates the first inductive field and the second unit convert the first inductive field into the output signals during the first time slot; and the second unit generates the second inductive field and the first unit converts the second inductive field into the output signals during the second time slot, because in order to enable a two-way communications and to prevent lost messages, the first unit transmits signals, the second unit must receive the signals and vice versa.

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- b. As per claim 2, Ono teaches including a transducer 18 (Fig. 4) in the second unit.
- c. As per claim 3, Ono teaches a rod antenna 14 (Fig. 10).
- d. As per claim 7, refer to discussion in claim 1 above. Since Ono teaches a magnetic wireless communications system, he inherently teaches a method to perform the communications as claimed.

5. Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ono et al (U.S. Patent No. 4,334,315) as discussed in claim 1 above and further in view of Sharma et al (U.S. Patent No. 5,615,229) (hereinafter Sharma) .

Sharma teaches including a plurality of transducers comprising an array of rod antennas (col. 8, lines 1-8).

Sharma does not teaches arranging the rod antennas orthogonally with each other. However, Sharma teaches configuring antennas in different geometries. It would have been obvious to a person of ordinary skill in the art at the time the invention was made that Sharma teaching can be modified by arranging the antennas orthogonally.

Further, Sharma teaches using a plurality of antennas. Using the three rod antennas is included in Sharma teaching.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim Nguyen whose telephone number is (703) 308-7915. The examiner can normally be reached on Monday-Friday from 8:00AM to 4:00PM ET.

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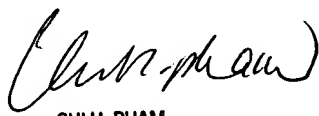
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham, can be reached on (703) 305-4378. The fax phone number for this Group is (703) 308-9051 or (703)308-9052.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

KTN

12/18/98

  
CHI H. PHAM  
SUPERVISORY PATENT EXAMINER  
GROUP 2700  
12/21/98